

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                                   |   |                                  |
|-----------------------------------|---|----------------------------------|
| SIGHT SCIENCES, INC.,             | ) |                                  |
|                                   | ) |                                  |
| Plaintiff,                        | ) | <b>Redacted - Public Version</b> |
|                                   | ) |                                  |
| v.                                | ) | C.A. No. 21-1317-GBW-SRF         |
|                                   | ) |                                  |
| IVANTIS, INC., ALCON RESEARCH     | ) |                                  |
| LLC, ALCON VISION, LLC, and ALCON | ) |                                  |
| INC.,                             | ) |                                  |
|                                   | ) |                                  |
| Defendants.                       | ) |                                  |

**DEFENDANTS' CONCISE STATEMENT OF FACTS IN SUPPORT OF THEIR  
MOTION FOR SUMMARY JUDGMENT OF INVALIDITY FOR INDEFINITENESS**

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Dated: October 12, 2023

1. Sight Sciences, Inc. (“Plaintiff”) accuses Ivantis, Inc., Alcon Research LLC, Alcon Vision, LLC and Alcon Inc. (“Defendants”) of infringement of the following claims (the “Asserted Claims”) from the following patents (the “Asserted Patents”):

- (i) U.S. Patent No. 8,287,482 (“’482 patent”) – claims 1, 5, 7-8, 10-11, 15, 18, 21, 23, 32, 36, 38-39, 41-42, 46, 49, 52, 54, 63, 68-70, 73, 77, and 79-80;
- (ii) U.S. Patent No. 9,370,443 (“’443 patent”) – claims 1, 8, 11-12, 21, 23-24, 27, 42-43, 46, 52, 54-59, and 70-71;
- (iii) U.S. Patent No. 9,486,361 (“’361 patent”) – claims 1-3 and 5-9;
- (iv) U.S. Patent No. 10,314,742 (“’742 patent”) – claims 1-3, 6-9, 12-13, 15, and 17-20; and
- (v) U.S. Patent No. 11,389,328 (“’328 patent”) – claims 1-2, 4-8, 12-14, 18, 21-23, and 25-26.

2. One of these three limitations: “fluid may traverse the canal without substantial interference from the support,” “support does not substantially interfere with [longitudinal/transmural] flow,” or “does not significantly block fluid outflow” (collectively, “Block Limitation”) is recited in each of the following claims:

- (i) ’482 Patent – claims 1, 5, 7-8, 10-11, 15, 18, 21, 23, 32, 36, 38-39, 41- 42, 46, 49, 52, 54, 63, 68-70, 73, 77, and 79-80;
- (ii) ’443 Patent – claims 1, 8, 11-12, 21, 23-24, 27, 42-43, 46, 52, 54-59, and 70-71;
- (iii) ’361 Patent – claims 6-8;
- (iv) ’742 Patent – claims 17-18; and
- (v) ’328 Patent – claims 7-8.

3. The Court construed the Block Limitation to mean: “the support does not significantly block either fluid outflow from the trabecular meshwork or fluid outflow to the collector channels.” D.I. 287; *see also* D.I. 273 at 6-7.

4. The Asserted Patents claim priority to Application No. 11/475,523, filed June 26, 2006. Ex. 1, '482 patent, cover; Ex. 2, '443 patent, cover; Ex. 3, '361 patent, cover; Ex. 4, '742 patent, cover; Ex. 5, '328 patent, cover.

5. The Asserted Patents share substantially identical specifications, except that the '443, '742, and '328 patents include an additional Figure 11D. D.I. 118 at 1.

6. A person of ordinary skill in the art of the Asserted Patents would have at least an M.D. and residency training in ophthalmology and/or an engineering degree with at least three years of experience in the field of ophthalmic/intraocular implants. *See* D.I. 118 at 4-5; Ex 15, Downs Reb. Rep. ¶ 24, 1073; Ex. 17, Tanna Op. Rep. ¶¶ 17-19.

7. The Asserted Patents do not disclose any modeling and/or testing in cadaver eye studies and/or clinical studies. Ex. 24, 9/28/23 Downs Tr. 66:21-67:15; 77:19-79:21; *see generally*, *e.g.*, Ex. 1, '482 Patent.

8. As of June 26, 2006, a POSA would not have been able to measure “blocking” of fluid *in vivo*. Ex. 24, 9/28 Downs Tr. at 107:5-109:16 (stating perfusion studies are not done in patients); 155:2-5 (same); Ex. 25, D. Badawi Tr. 174:24-177:5 (discussing perfusion studies: “the real proof in the pudding is not this, right, because this [perfusion study] is an *ex vivo* system”); Ex. 24, 9/28 Downs Tr. at 157:14-158:13; 155:20-23 (noting “there’s some variance” in the “trabecular meshwork permeability” among individuals); Ex. 18, Tanna Rpl. Rep. ¶ 537.

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**CERTIFICATE OF SERVICE**

I, Andrew E. Russell, hereby certify that on October 12, 2023, this document was served on [zsightsciencesivantis@cooley.com](mailto:zsightsciencesivantis@cooley.com) and the persons listed below in the manner indicated:

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